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RUDOLPH CHAVEZ

**IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF ARIZONA**

RUDOLPH AND LYNN CHAVEZ,	)	<b>Case No.:</b>
	)	
Plaintiff,	)	<b>COMPLAINT AND DEMAND FOR</b>
	)	<b>JURY TRIAL</b>
vs.	)	
	)	<b>(Unlawful Debt Collection Practices)</b>
	)	
DSS FINANCIAL GROUP, LLC	)	
	)	
Defendant.	)	
	)	

**COMPLAINT**

RUDOLPH and LYNN CHAVEZ (Plaintiffs), by their attorneys, KROHN & MOSS, LTD., alleges the following against DSS FINANCIAL GROUP, LLC (Defendant):

**INTRODUCTION**

- Count I of Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA). According to the FDCPA, the United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the

1 loss of jobs, and to invasions of individual privacy. Congress wrote the FDCPA to  
2 eliminate abusive debt collection practices by debt collectors, to insure that those debt  
3 collectors who refrain from using abusive debt collection practices are not competitively  
4 disadvantaged, and to promote consistent State action to protect consumers against debt  
5 collection abuses. *15 U.S.C. 1692(a) – (e)*.

- 6 2. Plaintiffs bring this action to challenge Defendant's actions with regard to attempts by  
7 Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by  
8 Plaintiffs, and this conduct caused Plaintiffs damages.
- 9 3. Defendant acted through its agents, employees, officers, members, directors, heirs,  
10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and  
11 insurers.

#### 12 **JURISDICTION AND VENUE**

- 13 4. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such  
14 actions may be brought and heard before "any appropriate United States district court  
15 without regard to the amount in controversy" and *28 U.S.C. 1367* grants this court  
16 supplemental jurisdiction over the state claims contained therein.
- 17 5. Because Defendant maintains a business office and conducts business in the State of  
18 Arizona, personal jurisdiction is established.
- 19 6. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
- 20 7. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

#### 21 **PARTIES**

- 22 8. Plaintiffs are natural persons who reside in the city of Peoria, Maricopa County, Arizona  
23 and are allegedly obligated to pay a debt and are "consumers" as that term is defined by  
24 *15 U.S.C. 1692a(3)*.
- 25 9. Defendant is a corporation with a business office in Phoenix, Arizona.

1 10. Defendant uses instrumentalities of interstate commerce or the mails in any business the  
2 principal purpose of which is the collection of any debts, or who regularly collects or  
3 attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or  
4 due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.

5 **FACTUAL ALLEGATIONS**

6 11. Defendant constantly and continuously places calls to Plaintiffs seeking and demanding  
7 payment for an alleged debt.

8 12. Defendant calls Plaintiffs at telephone number 623-486-5194 from telephone number  
9 602-799-2008.

10 13. Defendant called Plaintiffs and hung up before Plaintiffs or voicemail answered the  
11 phone.

12 14. Defendant placed telephone calls without meaningful disclosure of the caller's identity.

13 15. Defendant did not send Plaintiffs a debt validation letter.

14 16. Defendant failed to identify itself as a debt collector in subsequent communications.

15 **COUNT I**  
16 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

17 17. Defendant violated the FDCPA based on the following:

18 a. Defendant Violated §1692(d) of the FDCPA by engaging in conduct the natural  
19 consequence of which is to harass, oppress, and abuse Plaintiffs.

20 b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring  
21 repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiffs;

22 c. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without  
23 meaningful disclosure of the caller's identity by calling Plaintiffs and hanging up  
24 the phone.  
25

- 1 d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an  
2 attempt to collect a debt by failing to disclose in subsequent communications that  
3 the communication is from a debt collector.
- 4 e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent  
5 communications that the communication is from a debt collector.
- 6 f. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the  
7 debt within 5 days after the initial communication including: (1) the amount of the  
8 debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that  
9 unless the consumer, within 30 days after receipt of the notice, disputes the  
10 validity of the debt, or any portion thereof, the debt will be assumed to be valid by  
11 the debt collector; (4) a statement that if the consumer notifies the debt collector  
12 in writing within the 30-day period that the debt, or any portion thereof, is  
13 disputed, the debt collector will obtain verification of the debt or a copy of a  
14 judgment against the consumer and a copy of such verification or judgment will  
15 be mailed to the consumer by the debt collector; and (5) a statement that, upon the  
16 consumer's written request within the 30-day period, the debt collector will  
17 provide the consumer with the name and address of the original creditor, if  
18 different from the current creditor.
- 19 g. As a direct and proximate result of one or more or all of the statutory violations  
20 above Plaintiffs have suffered emotional distress (see Exhibit "A").

21  
22 WHEREFORE, Plaintiffs, RUDOLPH and LYNN CHAVEZ, respectfully request  
23 judgment be entered against Defendant, DSS FINANCIAL GROUP, LLC, for the following:  
24  
25

1 18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection  
2 Practices Act,

3 19. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

4 20. Actual damages,

5 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
6 *15 U.S.C. 1692k*

7 22. Any other relief that this Honorable Court deems appropriate.

8 **DEMAND FOR JURY TRIAL**

9 PLEASE TAKE NOTICE that Plaintiff, RUDOLPH and LYNN CHAVEZ, demand a  
10 jury trial in this cause of action.

11 RESPECTFULLY SUBMITTED,

12 DATED: April 8, 2009

KROHN & MOSS, LTD.

13  
14 By: /s/ Ryan Lee  
Ryan Lee  
Attorney for Plaintiff  
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**VERIFICATION OF COMPLAINT AND CERTIFICATION****STATE OF ARIZONA**

Plaintiff, RUDOLPH CHAVEZ, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RUDOLPH CHAVEZ, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE:

44409

  
RUDOLPH CHAVEZ

**VERIFICATION OF COMPLAINT AND CERTIFICATION****STATE OF ARIZONA**

Plaintiff, RUDOLPH CHAVEZ, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RUDOLPH CHAVEZ, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 4/4/09

  
RUDOLPH CHAVEZ

**EXHIBIT A**



I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

1. Sleeplessness
2. Fear of answering the telephone
3. Nervousness
4. Fear of answering the door
5. Embarrassment when speaking with family or friends
6. Depressions (sad, anxious, or "empty" moods)
7. Chest pains
8. Feelings of hopelessness, pessimism
9. Feelings of guilt, worthlessness, helplessness
10. Appetite and/or weight loss or overeating and weight gain
11. Thoughts of death, suicide or suicide attempts
12. Restlessness or irritability
13. Headache, nausea, chronic pain or fatigue
14. Negative impact on my job
15. Negative impact on my relationships

YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: Rudolph J Chavez is Terminal Ill AND

this stress of harassment has placed a hardship on the  
family AND this made him sicker than he was before

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 4-11-09

Rudolph J Chavez & Lynn A. Reed-Chavez  
Signed Name

Rudolph J Chavez Lynn A. Reed-Chavez  
Printed Name